

**IOWA DEPARTMENT OF NATURAL RESOURCES
AMENDMENT TO ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**Minsa Corporation
Iowa Operation Permit #69-00-1-08**

**ADMINISTRATIVE CONSENT
ORDER**

NO. 2014-WW- 18

TO: Rodrigo Ariceaga
Chief Executive Officer
Minsa Corporation
2049 Fernwood Avenue
Red Oak, IA 51566

I. SUMMARY

This administrative consent order (Order) is entered into between Minsa Corporation (Minsa) and the Iowa Department of Natural Resources (DNR) for the purpose of resolving past violations related to the land application of wastewater.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Alison Manz, Environmental Specialist
DNR Field Office #4
1401 Sunnyside Lane
Atlantic, IA 50022
Phone: 712-243-1934

Relating to legal requirements:

Jon Tack, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-281-8889

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

I. JURISDICTION

This Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MINSA CORPORATION

III. STATEMENT OF FACTS

1. Minsa owns and operates a corn processing facility in Red Oak, Iowa. Minsa processes corn for making tortillas and other corn-based products. The corn is soaked in a mixture of water and lye, and then is dried and ground into flour. Most of the solids are removed from the wastewater through a screening process before it is pumped into a 1.5 million gallon storage tank. The liquid waste has historically been land applied pursuant to Iowa Operation Permit No: 69-00-1-08. Minsa has also previously disposed of the liquid wastewater at a permitted municipal wastewater treatment plant. Minsa has been land applying wastewater since at least 1995. The initial land application permit was issued by the DNR to Minsa on February 20, 1996.
2. Minsa is currently authorized to land apply wastewater pursuant to a renewed permit issued May 19, 2006, as amended on April 4, 2007, which has been extended by operation of law. Pursuant to Special Condition #19 of the current permit, Minsa shall install two groundwater monitoring wells adjacent to each application area on which more than two inches or 50,000 gallons per acre of wastewater will be applied in any four-year period. One well must be up-gradient and one must be down-gradient.
3. On August 28, 2009, a routine inspection by the DNR of Minsa's wastewater disposal activities revealed that Minsa was in violation of multiple requirements of its land application permit. Violations included a failure to contain wastewater, application to fields not approved in the permit, excessive land application to an individual parcel, inadequate record keeping, and a failure to conduct required groundwater monitoring. According to DNR's records, groundwater monitoring at application sites has never occurred. A Notice of Violation was issued to Minsa on December 18, 2009.
4. On January 27, 2010, Minsa provided updated information in regard to its land application activities and denied all allegations of violation.
5. On May 3, 2010, the DNR issued a Notice of Violation to Minsa for failure to submit monthly operation reports for January, February, and March 2010.
6. On July 30, 2010, the DNR issued a Notice of Violation to Minsa for failure to submit monthly operation reports for April, May and June 2010.
7. On October 15, 2012, the DNR issued a Notice of Violation to Minsa for the failure to conduct required groundwater monitoring and land application to unapproved sites. No groundwater monitoring had occurred since at least January of 2010. For many of the land application sites, groundwater testing was never undertaken. The DNR also raised questions at that time in regard to the accuracy of the sampling and testing from the wastewater storage tank.
8. On November 19, 2012, Minsa submitted a response to the October 15, 2012 Notice of Violation. The response provided information about land applications sites being used by

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MINSA CORPORATION

Minsa. The response did not address the failure to conduct groundwater monitoring at the application sites or the failure to obtain approval for the use of these sites.

9. On February 27, 2013, the DNR conducted a routine inspection to determine Minsa's compliance with its land application permit. The same violations that have existed throughout the history of land application by Minsa were again documented. Wastewater was applied to fields which were not approved for application. Groundwater monitoring wells had not been installed at the application sites. The over-application of wastewater was noted. A Notice of Violation was issued on March 18, 2013 and the matter was referred to the DNR Legal Services Bureau for the initiation of an enforcement action.

10. On April 8, 2013, Minsa obtained certification from the Iowa Department of Agriculture and Land Stewardship authorizing the use of the material formerly land applied as wastewater as an agricultural liming agent. Pursuant to that certification, the wastewater may be applied for agronomic uses without an Iowa wastewater disposal permit. Application purely for disposal continues to be regulated pursuant to the DNR permit.

IV. CONCLUSIONS OF LAW

The DNR and Minsa agree that the following conclusions of law are applicable in this case:

1. Pursuant to Iowa Code section 455B.183(1)(c), the operation of any waste disposal system without a written permit from the director of the DNR is unlawful. Minsa has been authorized to dispose of wastewater by land application pursuant to the terms of Iowa Operation Permit No: 69-00-1-08.

2. Pursuant to Special Provision #2 of Permit No: 69-00-1-08, Minsa may land apply up to two inches of wastewater per year or 50,000 gallons per acre per year onto parcels designated as Area 1001 through area 1007, inclusive. Minsa has violated this provision.

3. Pursuant to Special Provisions #6 of Permit No: 69-00-1-084, wastewater application shall not exceed 0.75 inch (or 20,000 gallons per acre) per two weeks. Minsa has violated this provision.

4. Pursuant to Special Provisions #19 of Permit No: 69-00-1-084, two groundwater monitoring wells (one up and one downstream with respect to the direction of groundwater flow) shall be installed adjacent to each application area on which more than two inches (or 50,000 gallons per acre) of wastewater will be applied in a four-year period.

5. Pursuant to the monitoring and reporting requirements of Permit No: 69-00-1-084, groundwater monitoring is required once every three months in the up-gradient and down-gradient monitoring wells at each identified land application site for the parameters of nitrate nitrogen and total dissolved solids. Minsa has violated this requirement continuously since at least January 1, 2010, and likely since as long as land application has occurred.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MINSA CORPORATION

6. Minsa nether admits nor denies the allegations or conclusions of law set forth herein and enters into this Consent Order for the sole purpose of settlement of an enforcement action by the DNR. This Consent Order settles any and all claims of violations of the wastewater discharge permits identified herein or Iowa Code section 455B.183(1) that occurred prior to the signing of this Order.

V. ORDER

THEREFORE, the DNR orders and Minsa agrees to the following requirements:

1. Minsa shall not dispose of wastewater by land application on any site in such quantities that the DNR rules require the installation of groundwater monitoring wells until the required groundwater monitoring wells have been installed and baseline sampling results from the wells have been submitted to the DNR. Iowa Operation Permit No: 69-001-08 requires the installation of groundwater monitoring wells if more than 2 inches of wastewater (50,000 gallons per acre) will be applied to an approved site in a four-year period. Authority to land apply wastewater to Area 1001 through Area 1007 in excess of 2 inches of wastewater (50,000 gallons per acre) is hereby suspended until the conditions of this paragraph are satisfied.

2. Prior to any additional land application to new application sites or in excess of the rates described in paragraph #1 of this part V. Order, Minsa shall submit a work request to the DNR Wastewater Engineering Section for review and approval of any proposed new sites of land application.

3. Within 30 days of notice of a decision by the DNR to approve or disapprove of proposed land application sites, or in any event no later than November 1, 2014, Minsa shall submit to the DNR an updated application for renewal of Iowa Operation Permit No: 69-001-08. The updated application shall contain all information necessary to identify and review any land application sites proposed to be added to the permit. If Minsa does not intend to dispose of wastewater through land application, Minsa shall submit a notice of discontinuation of permit by November 1, 2014.

4. Minsa shall pay an administrative penalty of \$10,000 within 30 days of the execution of this Order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at IAC Chapter 567 - 10. The administrative penalty

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MINSA CORPORATION

assessed by this Order is determined as follows:

Economic Benefit – Minsa has achieved an economic benefit from the violations documented herein. Avoided costs include the installation of at least 14 groundwater monitoring wells. Records prepared by Minsa indicate at least 5 additional disposal sites. The cost of installing a groundwater well can vary greatly dependent upon geology, depth of well, materials, and purpose. An approximate range is \$40 to \$60 per foot for each well required by law. Groundwater sampling costs were also avoided. The permit requires two samples of three contaminants per well per quarter. The cost for analyzing each sample constituent is approximately \$19. With 3 constituents per sample, the cost would be \$57 per sample. If 12 application sites were used, then 24 wells were needed and 192 samples per year. The resulting savings from sampling costs alone are estimated to be \$10,944 per year for the period of violations. In order to resolve this matter consensually through and at the administrative level, the DNR has agreed to the assessment of \$6,000 for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. In this case, the primary forms of environmental protection provided by the wastewater disposal permit were application rates and groundwater monitoring. Minsa failed to take these minimal steps to ensure the protection of human health and the environment. The material has now been certified as an agricultural liming agent and pre-application sampling indicates a fair degree of safety. Based upon these considerations \$3,000 is assessed for this factor.

Culpability – Minsa should have been aware of the applicable requirements since at least 2006. Minsa has been expressly made aware of the violations related to groundwater monitoring and the prohibition on applying to unapproved areas since at least 2009. This notice did not result in compliance until after February of 2013. In mitigation of this culpability assessment, there appears to have been a genuine misunderstanding in regard to the groundwater monitoring requirements imposed by the permit. Despite the onus being on Minsa to attempt to clarify this misunderstanding, in order to resolve this matter the DNR agrees to the assessment of a penalty of \$1,000 for this factor.

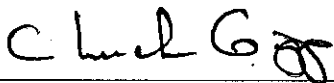
VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of Minsa. For that reason, Minsa waives the right to appeal this Order or any part thereof.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MINSA CORPORATION

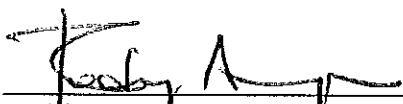
VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with section V. Order of this Order constitutes full satisfaction of all requirements pertaining to the violations described in section "IV. Conclusions of Law" of this Order.



Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 19th day of
December, 2014



Rodrigo Ariceaga, Chief Executive Officer
Minsa Corporation

Dated this 10 day of
December, 2014

Iowa #6900108; Field Office #4; Jon Tack; EPA; I.B.2(a); I.B.2c